

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant: Stephen J. Brown

Application No.: 09/665,442 Examiner: Koppikar, V.

Filed: September 19, 2000 Art Group: 3686

For: MULTI-USER REMOTE HEALTH MONITORING SYSTEM WITH
BIOMETRICS SUPPORT

REPLY BRIEF

Mail Stop - Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant submits the following Reply Brief pursuant to 37 C.F.R. §41.41 for consideration
by the Board of Patent Appeals and Interferences.

STATUS OF CLAIMS

Claims 47-49, 51-62 and 77-110 are pending and remain rejected. Claims 1-46, 50 and 63-76 were previously cancelled. The Appellant hereby maintains the appeal of the rejections of claims 47-49, 51-62 and 77-110.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The first ground of rejection is whether claims 47, 55-57, 77, 84, 91, 98, 105 and 107-110 are patentable under 35 U.S.C. §102(b) over Fujimoto (U.S. Patent No. 5,339,821; hereinafter Fujimoto).

The second ground of rejection is whether Claims 48, 49, 51-54 and 58 are patentable under 35 U.S.C. §103(a) over Fujimoto as applied to Claim 47.

The third ground of rejection is whether Claims 59-62 and 106 are patentable under 35 U.S.C. §103(a) over Fujimoto.

The fourth ground of rejection is whether Claims 78-83, 85-90, 92-97 and 99-104 are patentable under 35 U.S.C. §103(a) over Fujimoto as applied to Claims 77, 84, 91 and 98.

ARGUMENTS

The Examiner has apparently made little or no effort to respond to the Appeal Brief previously filed. For example, the Examiner merely repeats the same rejections of record for 6 pages. Then the Examiner follows up (starting on page 7) with a short section addressing 3 points in the claims. Each point is broken out into a separate paragraph that starts by quoting a portion of the claim, then simply following with a conclusionary statement that the Examiner doesn't agree, then points to the same citation that was previously presented. This type of "argument" does not address any of the issues presented by Appellant. No analysis has been presented.

For example, in item (1) on pages 7 and 8 of the Answer, the Examiner states that "Fujimoto does in fact disclose the features" of ... (i) a central processing unit, (ii) a remote processing apparatus remotely located from and in signal communication with the central processing unit via the communication network and (iii) a computer remotely located from and in signal communication with the central processing unit via the communication network. A citation is provided that merely says see FIG. 1 and Col. 2, Lines 34-55. No analysis has been presented. The Examiner presents this citation as if it speaks for itself. Unfortunately, the Examiner does not make any effort to address the points raised in the Appeal Brief. For example, the section cited above was addressed on page 48, lines 4-7 of the Appeal Brief. Appellants position is that "Fujimoto is silent regarding all three types of machines on a communication network as provided in the claims." The Examiner does not bother to explain how FIG. 1 is similar to the claimed computer nor does he identify any similar elements to the claimed computer of FIG. 1. Furthermore, the claim language of appellant's invention for the portions of Claims 47 and 59 that now entail "a central processing

unit” and “a remote processing apparatus remotely located from and in signal communication with the central processing unit via the communication network” (previously re-written) has been modified to the point that in no manner can it be construed to model the claims of the cited art. The essence of the Examiners mis-reading of Fujimoto stems from interpreting a display unit to read on a computer. Such an overly broad reading is not appropriate under current Examination Guidelines.

In a second example, on page 8 of the Answer, the Examiner implies that Fujimoto teaches generating a user-specific first program by modifying a template program based on input data received via a telecommunication line. The analysis is simply - see Column 4, Lines 14-67. No analysis has been presented. The Examiner presents this citation as if it speaks for itself. Unfortunately, the Examiner does not make any effort to address the points raised in the Appeal Brief. For example, this cited section was addressed on page 28-29 of the Appeal Brief. Appellants position is that “none of the cites in Fujimoto provided by the Examiner mention the host computer 5 reading a template program from a database. None of the cites in Fujimoto provided by the Examiner mention the claimed template program. The Examiner’s “Answer” to this analysis is to merely repeat the citation. Such an answer is not appropriate under current Examination Guidelines.

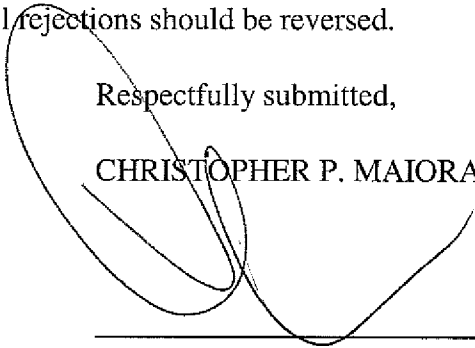
In a final example, on page 8, the Examiner states that Fujimoto does in fact clearly teach ...collecting measurement data according to a collect command and, also, transmitting this data (as per a transmit command) back to a host computer. The analysis is again - see Column 4, Lines 34-50; Column 4, Lines 60-69 and Column 8, Lines 8-40. No actual analysis has been presented. The Examiner does not make any effort to address the points raised in the Appeal Brief. For example, this cited section was addressed on page 36, lines 12-15 of the Appeal Brief. Appellant’s position is that “the host computer 5 of Fujimoto does not add input data receive via the

telecommunication line 4 to a first program to adapt the first program to the individual". Furthermore, Examiner's rejection rests on a notion that "computer remotely located from and in signal communication with the central processing unit" is the equivalent of medical apparatus 8 of Fujimoto which it certainly is not.

With the approach taken by the Examiner, it appears that no effort is being made to either examine the claims, or make some sort of effort to reach some allowable subject matter. Unfortunately, this is a common trend with this Examiner. While each case is certainly examined on its own, it seems quite suspect that none of the cases Examiner Koppikar has examined with the current assignee have been allowed, with the exception of another file (U.S. Patent No. 7,941,326) that was decided by the Board after an appeal. In any event, the current claims are fully patentable over the cited reference and all rejections should be reversed.

Respectfully submitted,

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Dated: June 28, 2012

c/o Health Hero Network
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